

FILED

June 14 2010

*Ed Smith*  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

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CLERK OF THE SUPREME COURT  
STATE OF MONTANA

BEFORE THE COMMISSION ON PRACTICE OF THE  
SUPREME COURT OF THE STATE OF MONTANA

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IN THE MATTER OF MARY ANN SUTTON, )  
An Attorney at Law, ) Supreme Court Cause No. PR 10-253  
Respondent. ) ODC File No. 10-111  
COMPLAINT

For its complaint, the Office of Disciplinary Counsel for the State of Montana ("ODC"),  
alleges:

1. Mary Ann Sutton, hereinafter referred to as Respondent, was admitted to the  
practice of law in the State of Montana in 1985, at which time she took the oath required for  
admission, wherein she agreed to abide by the Rules of Professional Conduct, the Disciplinary  
Rules adopted by the Supreme Court, and the highest standards of honesty, justice and morality,  
including but not limited to, those outlined in parts 3 and 4 of Chapter 61, Title 37, Montana  
Code Annotated.

1           2. The Montana Supreme Court has approved and adopted the Montana Rules of  
2 Professional Conduct ("MRPC"), governing the ethical conduct of attorneys licensed to practice  
3 in the State of Montana, which Rules were in effect at all times mentioned in this Complaint.

4           3. Respondent was charged by Information on May 30, 2008 with Felony Issuing  
5 Bad Checks—Common Scheme, in violation of §45-6-316(3), MCA. The case was captioned  
6 *State v. Sutton*, Montana Fourth Judicial District Court, Missoula County, Cause No. DC-2008-  
7 254. The Information alleged that on or about October 4 through October 15, 2007, Respondent  
8 issued three checks totaling \$8,000 to the Montana 1<sup>st</sup> Credit Union, knowing they would not be  
9 paid by the depository, the USAA Savings Bank.

10           4. Respondent pled *nolo contendere* to the charge on September 11, 2008. On  
11 December 15, 2008, the District Court adjudged and decreed Respondent guilty of the offense  
12 charged and imposed a six-year deferred sentence, subject to certain terms and conditions of  
13 probation.

14           5. Deputy Missoula County Attorney Betty Wing filed a Petition to Revoke on July  
15 2, 2009. The Petition alleged that Respondent violated the terms and conditions of probation.  
16 By its Judgment of March 9, 2010, the District Court revoked Respondent's prior sentence and  
17 imposed a new six-year deferred sentence, subject to certain additional terms and conditions of  
18 probation.

19           6. By Order filed June 9, 2010, the Montana Supreme Court, pursuant to Rule 23B,  
20 RLDE (2002), determined that the criminal offense of which Respondent has been convicted  
21 affects the Respondent's ability to practice law, suspended Respondent pending disposition of  
22 disciplinary proceedings and directed ODC to file a complaint against Respondent predicated  
23 upon her criminal conviction.  
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1           7. Pursuant to Rule 8A(3), RLDE (2002), conduct which results in conviction of a  
2 criminal offense is a ground for discipline.

3           8. Pursuant to Rule 8.4(b), MRPC, it is professional misconduct for a lawyer to  
4 “commit a criminal act that reflects adversely on the lawyer’s honesty, trustworthiness or fitness  
5 as a lawyer in other respects[.]”

6           9. Pursuant to Rule 8.4(c), MRPC, it is professional misconduct for a lawyer to  
7 “engage in conduct involving dishonesty, fraud, deceit or misrepresentation[.]”

8           10. Pursuant to Rule 23C, RLDE (2002), the sole issue to be determined in the formal  
9 disciplinary proceedings herein “shall be the extent of the final discipline to be imposed.”

10           WHEREFORE, the Office of Disciplinary Counsel prays as follows:

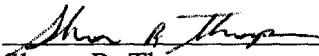
11           1. That a Citation be issued to the Respondent, to which shall be attached a copy of  
12 the complaint, requiring Respondent, within twenty (20) days after service thereof, to file a  
13 written answer to the complaint;

14           2. That a formal hearing be had on the allegations of this complaint before an  
15 Adjudicatory Panel of the Commission on the sole issue of the extent of the final discipline to be  
16 imposed upon the Respondent; provided, however, that the matter not be brought to hearing until  
17 all appeals from the conviction are concluded unless the Respondent requests that the matter not  
18 be deferred pursuant to Rule 23C, RLDE (2002);

19           3. That the Adjudicatory Panel of the Commission make a report of its findings and  
20 recommendation after a formal hearing to the Montana Supreme Court as to the nature and  
21 extent of appropriate discipline, and,  
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23           4. For such other and further relief is deemed necessary and proper.  
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1 DATED this 11<sup>th</sup> day of June, 2010.

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5 Shaun R. Thompson  
6 Disciplinary Counsel  
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